

DEPARTMENT OF STATE REVENUE

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LETTER OF FINDINGS NUMBER: 04-950256

Sales and Use Tax

For The Period: 1992 and 1993

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning specific issue.

ISSUES

I. Sales and Use Tax - AutoCAD Software

Authority: IC 6-2.5; 45 IAC 2.2-5-8(g)(7)

Taxpayer protests the imposition of use tax on CAD software.

STATEMENT OF FACTS

Taxpayer is a manufacturer of electronic computer-driven industrial control systems. Taxpayer designs the circuitry using CAD software. Taxpayer manufactures the boards and installs them into environmentally safe units. These units are sold primarily to steel mills, who use them in their production lines. Taxpayer focuses on the custom design and engineering of the circuitry to meet the specific needs of its customers. The finished product is then assembled and tested and installed at the customer's business.

I. Sales and Use Tax - AutoCAD Software

DISCUSSION

Taxpayer purchased computer-aided design software for use in the business. Taxpayer purchased all of this software exempt. Taxpayer argues that all software is purchased for resale. The taxpayer stipulates that its customers require and specify that all electrical schematic drawings must be on AutoCAD format, and that the taxpayer could not sell its product without electrical schematic drawings on AutoCAD formatted floppy discs. The taxpayer also argues that the machinery cannot run without the software since all of the software is ultimately transferred to the customer as part of the product. In addition the taxpayer argues that the AutoCAD software is part of its manufacturing process as a sophisticated "tool."

The auditor did not take issue with either account by the taxpayer. With regard to the manufacturing tool argument, the auditor noted that the taxpayer's utility study, which the taxpayer signed, listed only seven out of twenty-four computers as being used in the manufacturing process. Yet there are twenty computers with AutoCAD software on them. Taxpayer, in rebuttal, argues that it is required by copyright laws to keep separate software programs for every computer that uses copyrighted software.

The Indiana Administrative Code addresses computer-aided software. Under 45 IAC 2.2-5-8(g)(7) "computers which produce designs which are not sold as products are not exempt. Thus computer-aided design is a non-exempt function." The electrical schematic drawings formatted on floppy discs (i.e., AutoCAD software) are not sold as separate and discrete products--as the exemption under 45 IAC 2.2-5-8(g)(7) envisions. The product of the taxpayer is the industrial control systems. Thus under 45 IAC 2.2-5-8(g)(7) the AutoCAD software is not exempt, since it is not "sold as [a] product," though it may be concomitant with the product. With regard to the "manufacturing tool" argument made by the taxpayer, the software is for design and is thus taxable.

FINDING

Taxpayer's protest is denied.